

55. The method of claim 53, wherein said invasive bacteria are intranasally administered to a human.

56. A method for inducing an immune response in an animal comprising introducing attenuated live invasive bacteria, wherein said bacteria contain a vector containing genetic material, wherein said genetic material encodes a vaccine antigen, wherein said vaccine antigen is expressed at levels sufficient to induce an immune response, wherein said invasive bacteria are administered to a mucosal surface of said animal.

57. The method of claim 56, wherein said attenuated bacteria is attenuated *Shigella flexneri*.

58. The method of claim 56, wherein said invasive bacteria are intranasally administered to a human.

59. The method of claim 56, wherein said invasive bacteria is selected from the group consisting of *Shigella*, *Listeria*, and *Escherichia coli*.--

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#### REMARKS

Claims 7-8, 10-13, 20-21, 23-25, 27, 34-35, 37, 39, 44 and 45-59 are pending.

Claims 1-6, 9, 14-19, 22, 26, 28-33, 36, 38, and 40-43 have been cancelled herein by this preliminary amendment.

Applicants have filed this application to provoke an interference with issued U.S. Patent 5,877,159 issued to Powell et al. on March 2, 1999 based on an application Serial no. 08/433,790 filed May 3, 1995 ("the Powell patent").

In the July 19, 1999 Office Action issued in the prosecution of Applicants' application Serial No. 08/711,961, the Powell et al '159 patent was cited as an anticipatory reference under 35 U.S.C. §102(e) against all of the claims remaining in that application.

Applicants believe that the subject matter of their invention was first conceived of by them and that the invention claimed in the Powell et al. '159 patent was, in part, appropriated directly from disclosures made to Powell et al. prior to the filing date of the application leading to issuance of the Powell et al. patent U.S. 5,877,159.

The claims presented herein correspond to 1) claims originally filed in the ancestral applications hereto, 2) copied claims from the Powell et al. '159 patent, and 3) claims believed to embrace the claimed subject matter in the Powell et al. '159 patent and conforming to the disclosure of the invention contained in the present application.

In detail, new claim 45 is Powell claim 1, claim 46 is claim 5, and claim 47 is claim 6. New claims 49 and 50 are copies of Powell claims 13 and 14, respectively. Finally, claim 53 is a copy of Powell et al's claim 15.

Claim 48 is a count which is a modified form of Powell et al. '159 claim 1, Claim 51 is a count which is a modified form of Powell et al. '159 claim 13, and Claim 56 is a count which is a modified form of Powell et al. '159 claim 15. Claims 52, 54, 55, and 57-59 are all dependant claims corresponding respectively to claims is a copy of Powell et al's '159 claims 14, 22, 21, 22, 20, and 23 .

Applicants believe that the fundamental criteria for provoking an interference are met in this situation. Applicants' application satisfies the disclosure requirements under 35 U.S.C. §112 and is believed to define patentable subject matter over the prior art

except to the extent of the citation of the Powell et al. '159 patent, which is requested to be placed in an interference with the application. In the context of enabling disclosures, Applicants submit that the issuance of their patent, U.S. 5,824,538, supports applications contentions that the disclosure contains inventive subject matter.

Therefore, Applicant requests favorable consideration of the application, as preliminarily amended.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

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